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FAX

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DATE APRIL 13, 2006

TO PATENT EXAMINER: JEANINE ANNE GOLDBERG

FAX NO. 571.273.8300

FROM BEN WANG,
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Re: US Serial No.: 10/796,280 filed: 03/10/2004

Entitled: "GENETIC POLYMORPHISMS ASSOCIATED WITH STENOSIS, METHODS OF
DETECTION AND USES THEREOF"

Atty. Docket No.: CL001510ORD

Attached: **RESPONSE TO RESTRICTION REQUIREMENT; TRANSMITTAL FORM**

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PTO/SB/21 (09-04)

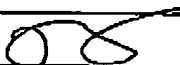
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/798,280
	Filing Date	March 10, 2004
	First Named Inventor	Michelle CARGILL
	Art Unit	1034
	Examiner Name	Jeanine Anna Goldberg
	Attorney Docket Number	CL15100RD
Total Number of Pages in This Submission		5

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to restriction requirement (3 pgs); Fax cover sheet (1pg)
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Celera Diagnostics		
Signature			
Printed name	Ben Wang		
Date	April 13, 2006	Reg. No.	41,420

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Cargill, et al.

Art Unit: 1634

Serial No.: 10/796,280

Examiner: Jeanine A. Goldberg

Filed: March 10, 2004

Atty. Docket No.: CL1510ORD

For: GENETIC POLYMORPHISMS
ASSOCIATED WITH STENOSIS, METHODS
OF DETECTION AND USES THEREOF

Response to Restriction RequirementResponse to Restriction Requirement under 35 U.S.C. 121

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This correspondence is in response to the Restriction Requirement mailed March 13, 2006 for the above-identified application, setting a 30 days/1 month period for the response. The response herein is thus submitted timely.

In the Restriction Requirement, the Examiner requested Applicants elect one of the following inventions:

Group I, Claims 1-6, and 21-22, drawn to a method for identifying an individual who has an altered risk for developing stenosis.

Group II, Claims 7-9, and 13-20, drawn to a nucleic acid.

Group III, Claim 10, drawn to a polypeptide.

Group IV, Claims 11-12, drawn to an antibody.

Group V, Claim 23, drawn to a method for detecting a variant polypeptide.

Group VI, Claim 24, drawn to a method for identifying an agent.

The Examiner also issued a further restriction requirement to all groups having more than one nucleotide sequence.

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Atty. Docket: CL1510ORD

Applicants hereby provisionally elect, with traverse, to prosecute Group I, claims 1-6, and 21-22, drawn to a method for identifying an individual at risk for stenosis, using in particular nucleotide sequence hCV25930271, SEQ ID NO. 19350.

In requiring Applicants to select only one sequence to prosecute, the Examiner noted that "searching more than one of the claimed patentably distinct sequences represents a serious burden for the office." See Restriction Requirement, page 7. Applicants respectfully disagree.

Applicants are mindful of the workload imposed on the Patent Office due to the increasing numbers of patent applications that are being filed and examined. However, Applicants wish to draw the Examiner's attention to MPEP Section 803.04, which addresses restriction requirement relating to nucleotide sequences. See also *Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996).

There, while recognizing that nucleotide sequences "are deemed to normally constitute independent and distinct inventions", the Director "has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application" in the interest "to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office."

The MPEP goes on to announce that it "has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." MPEP Section 803.04, Eighth Edition, Revision 3, August 2005.

Therefore, Applicants hereby respectfully request that the following **ten (10)** nucleotide sequences in Group I to be examined together. The ten sequences are shown in the table attached below. More detailed information about these ten sequences can be found in Table 2, Table 6, Table 7, and the Sequence Listing of the patent specification.

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Atty. Docket: CL1510ORD

	<u>Marker</u>	<u>Gene Name</u>	<u>SEQ ID NO.</u>	<u>Source Table</u>
1	hCV25930271	LPA	19350	7
2	hCV25594325	HAP1	24270	6
3	hCV25644769	AP3B1	17015	6
4	hCV25924894	SERPINA9	14931	7
5	hCV11474611	CALM1	34962	7
6	hCV11450563	none	33563	7
7	hCV25967803	EBNA1BP2	29980	7
8	hCV9088175	TDRKH	15992	7
9	hCV16183633	none	33679	7
10	hCV8905006	PGM1	38777	7

In the event the Examiner maintains the Restriction Requirement, Applicants reserve the right to request rejoinder of any process claims limited in scope to allowable product claims in accordance with *In re Ochiai*, and further reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications without prejudice.

The Examiner is invited to contact the undersigned via telephone if a phone interview would expedite the prosecution of the instant patent application.

Respectfully submitted,

By:



Ben Wang, Reg. No.: 41,420

Date: April 13, 2006

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